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PATENT



RESPONSE UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP NO.: 2683

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3/1/04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

ALAN L. KREGEL

Serial No.: 09/839,217

Filed: April 23, 2001

For: MISSED CALL NOTIFICATION TO
CELLULAR TELEPHONE USING
SHORT TEXT MESSAGING

Art Unit: 2683

Examiner: CUMMING, William D.

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RECEIVED

FEB 25 2004

Technology Center 2600

Sir:

Applicant respectfully requests reconsideration of the rejection of claims 1-39 set forth in the Office Action mailed November 26, 2003.

In the Office Action claims 1-39 were provisionally rejected based on double patenting under 35 U.S.C. §101 over claims 1-39 of co-pending application 09/822,332. Claims 1-39 were also provisionally rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-39 of co-pending application 09/822,332. To the extent these grounds of rejection might still be applied to claims presently pending in this application, they are respectfully traversed.

While the claims of the instant application have not been amended, the claims of the parent '332 application have been amended to even more clearly modify the scope thereof in

comparison to the independent claims of the instant co-pending application. In particular, the amended claims in the '332 application no longer recite "sending a location request communication" and/or "receiving an access denied response." Thus, the scope of the sets of claims pending therein in comparison to those pending in this application is clearly different. Applicant notes for the record that the scope of the claims in each of the co-pending applications was different even before amendment, in that the claims of the instant application recited, for example, "receiving an access denied response with a reason code of at least one of MS Inactive, Busy, No Page Response and Unavailable from the home location register," which was not recited in any of the original claims in the parent '332 application. Nevertheless, to accelerate the prosecution of this and the co-pending '332 application, Applicant has elected to further differentiate the claims via amendment of the claims in the '332 application, and to thereby clearly overcome the §101 double patenting rejection.

Should the Examiner still take the position that a judicially create obviousness-type double patenting rejection is still justified despite the claim amendments in the co-pending application, the Examiner is requested to contact the undersigned so that an appropriate Terminal Disclaimer can be prepared and submitted.

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In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

SHAW PITTMAN LLP
1650 Tysons Boulevard
McLean, VA 22102
Tel: 703/770-7693

Date: February 24, 2004

Customer No. 28970

Respectfully submitted,

ALAN L. KREGEL

By:



Lawrence D. Eisen
Registration No. 41,009